

IC 21-1-5

Chapter 5. Advancement From Common School Fund for Disaster Loss

IC 21-1-5-1

Application of chapter

Sec. 1. This chapter applies to school corporations organized and formed through reorganization under IC 20-4-1, IC 20-4-5, or IC 20-4-8 and school townships under IC 20-2-8. However, if a school corporation or school township sustains loss by fire, wind, cyclone, or other disaster, of all or a major portion of its school building or school buildings, sections 4 and 9 of this chapter do not apply.

(Formerly: Acts 1959, c.379, s.1; Acts 1961, c.49, s.1; Acts 1965, c.210, s.1.) As amended by P.L.390-1987(ss), SEC.30; P.L.277-1993(ss), SEC.105.

IC 21-1-5-2

Limitations on power of school corporation to replace damaged property

Sec. 2. (a) This section applies only when a school corporation or school township sustains loss by fire, wind, cyclone, or other disaster of all or a major portion of its school building or school buildings.

(b) A school corporation or school township seeking to exercise its right of eminent domain under IC 32-24 for the purpose of obtaining land for use in reconstructing or replacing the school building or school buildings may not condemn more than twice the acreage established by the Indiana state board of education as the minimum acreage requirement for the type of school building damaged or destroyed and being reconstructed or replaced. In determining the acreage, land already owned by the school corporation or school township that adjoins any part of the land out of which additional land is sought to be condemned shall be used in computing the total acreage for the reconstruction or replacement of the school building or school buildings under this section. The need for the additional land is subject to judicial review in the court where the condemnation action is filed and may, at the request of either party, be tried either by the court or a jury before appraisers are appointed with full rights of appeal, by either party, from the interlocutory findings.

(c) This chapter is supplemental to any other law and repeals by implication any law in conflict with this chapter.

(Formerly: Acts 1959, c.379, s.1a; Acts 1961, c.49, s.2.) As amended by P.L.2-1988, SEC.652; P.L.277-1993(ss), SEC.106; P.L.2-2002, SEC.71.

IC 21-1-5-3

Advancement of money for school building construction and educational technology programs; definitions

Sec. 3. (a) The Indiana state board of education is authorized to

advance money to school corporations and school townships from the common school fund to be used for school building construction and educational technology programs as provided in this chapter.

(b) As used in this chapter, "school building construction program" means the purchase, lease, or financing of land, the construction and equipping of school buildings, and the remodeling, repairing, or improving of school buildings by a school corporation or school township:

- (1) that sustained loss by fire, wind, cyclone, or other disaster of all or a major portion of a school building or school buildings;
- (2) whose assessed valuation per pupil ADA is within the lowest forty percent (40%) of the assessed valuation per pupil ADA when compared to all school corporation or school township assessed valuation per pupil ADA; or
- (3) with an advance under this chapter outstanding on July 1, 1993, that bears interest at least seven and one-half percent (7.5%).

However, as used in this chapter, the term does not include facilities used or to be used primarily for interscholastic or extracurricular activities.

(c) As used in this chapter, "educational technology program" means the purchase, lease, or financing of educational technology equipment, the operation of the educational technology equipment, and the training of teachers in the use of the educational technology equipment.

(Formerly: Acts 1959, c.379, s.2; Acts 1973, P.L.234, SEC.9; Acts 1975, P.L.246, SEC.1.) As amended by Acts 1980, P.L.44, SEC.2; P.L.20-1984, SEC.170; P.L.28-1992, SEC.7; P.L.277-1993(ss), SEC.107.

IC 21-1-5-4

Qualifications for advancement; capital projects fund; waiver for good cause

Sec. 4. (a) To qualify for an advance under this chapter, the school corporation or school township is required to establish a capital projects fund under IC 21-2-15. However, the Indiana state board of education, after consulting with the department of education and the budget agency, may waive or modify this requirement upon a showing of good cause by the school corporation or school township.

(b) No advance to a school corporation or a school township for any school building construction program may exceed the greater of:

- (1) fifteen million dollars (\$15,000,000); or
- (2) the product of fifteen thousand dollars (\$15,000) multiplied by the number of pupils accommodated as a result of the school construction building program. However, if a school corporation or school township has sustained loss by fire, wind, cyclone, or other disaster, this limitation may be waived by the Indiana state board of education after consulting with the department of education and the budget agency.

(c) Advances for educational technology programs are without limitation in amount other than the availability of funds in the common school fund for this purpose and the ability of the school corporation or school township desiring an advance to pay the advance in accordance with the terms of the advance.

(Formerly: Acts 1959, c.379, s.3; Acts 1963, c.321, s.1.) As amended by Acts 1980, P.L.44, SEC.3; P.L.2-1988, SEC.653; P.L.28-1992, SEC.8; P.L.277-1993(ss), SEC.108.

IC 21-1-5-5

Advancement of money; terms

Sec. 5. (a) Money advanced to school corporations or school townships for school building construction programs may be advanced for periods not exceeding twenty-five (25) years, and the school corporations or school townships to which money is advanced shall be required to pay interest on the advance. For advances made before July 1, 1993, the Indiana state board of education may provide, either before an advance is made or before an advance is fully paid, that no payment of the advance may be prepaid by more than six (6) months. For advances made beginning July 1, 1993, for school building construction programs, the Indiana state board of education may provide that the advances are prepayable at any time. The state board of finance created by IC 4-9.1-1 shall periodically establish the rate or rates of interest payable on advances for school building construction programs as long as:

- (1) the established interest rate or rates do not exceed seven and one-half percent (7.5%); and
- (2) the interest rate or rates on advances made to school corporations or school townships with advances outstanding on July 1, 1993, bearing interest at seven and one-half percent (7.5%) or more shall not exceed four percent (4%).

(b) Money advanced to school corporations or school townships for educational technology programs may be for periods not exceeding five (5) years and the school corporations or school townships to which advances are made shall be required to pay interest on the advances. Advances for educational technology programs may be prepaid at any time. The state board of finance shall establish periodically the rate or rates of interest payable on advances for educational technology programs as long as the established interest rate or rates:

- (1) are not less than one percent (1%); and
- (2) do not exceed four percent (4%).

(c) To assure timely payment of advances in accordance with their terms, the state is authorized in its sole discretion to withhold from funds due to school corporations and school townships to which advances are made amounts necessary to pay the advances and the interest on the advances in accordance with their respective terms. The terms of the advances shall be established by the Indiana state board of education after consulting with the department of education and upon the approval of the budget agency in advance of the time

the respective advances are made. However, in the case of school corporations or school townships with advances outstanding on July 1, 1993, the withholding may be adjusted to conform with this chapter. To the extent available, funds shall first be withheld from the distribution of state school tuition support. However, if this distribution is not available or is inadequate, funds may be withheld from the distribution of other state funds to the school corporation or school township to which the advance is made.

(Formerly: Acts 1959, c.379, s.4; Acts 1963, c.321, s.2; Acts 1965, c.210, s.2; Acts 1973, P.L.234, SEC.10.) As amended by Acts 1980, P.L.44, SEC.4; P.L.20-1984, SEC.171; P.L.28-1992, SEC.9; P.L.277-1993(ss), SEC.109.

IC 21-1-5-6

Application for advancement of money

Sec. 6. Any school corporation or school township desiring to obtain an advance under this chapter shall be required to submit an application to the Indiana state board of education in the form established by the Indiana state board of education after consulting with the department of education and the budget agency.

(Formerly: Acts 1959, c.379, s.5.) As amended by P.L.20-1984, SEC.172; P.L.28-1992, SEC.10; P.L.277-1993(ss), SEC.110.

IC 21-1-5-7

Advancements from tuition fund not to be obligation of school corporation or school township; additional conditions of advancement; agreement under IC 21-1-5-11 not to be debt of state

Sec. 7. (a) No advance under this chapter shall be an obligation of the school corporation or school township within the meaning of any constitutional limitation on or prohibition against indebtedness. Nothing in this chapter shall relieve the board of school trustees of the school corporation or school township receiving an advance under this chapter of any obligation under state law to qualify the school corporation or school township for state school tuition support, and the board shall continue to perform all acts necessary to obtain these funds. Any school corporation or school township receiving an advance under this chapter shall agree to have the money advanced, together with the interest on the advance, deducted from the distribution of state school tuition support until all of the money advanced, together with the interest on the advance, has been paid. The Indiana state board of education and the state board of finance shall reduce each distribution of state school tuition support to each school corporation or school township to which an advance is made in an amount to be agreed upon by the state and the school corporation or school township.

(b) An agreement with the Indiana state board of education or state board of finance under section 11 of this chapter to collect and pay over amounts deducted from state school tuition support for the benefit of another party is not a debt of the state within the meaning of any constitutional limitation on or prohibition against state

indebtedness.

(Formerly: Acts 1959, c.379, s.6.) As amended by P.L.20-1984, SEC.173; P.L.28-1992, SEC.11; P.L.277-1993(ss), SEC.111.

IC 21-1-5-8

Tax levy in debt service fund authorized; transfer of money to general fund

Sec. 8. A school corporation or school township to which an advance is made for a school building construction program may annually levy a tax in the debt service fund sufficient to produce an amount equal to the amount deducted in the current year from the distribution of state school tuition support to pay the advance, together with the interest on the advance. The amount received from the tax shall be transferred from the debt service fund to the general fund.

(Formerly: Acts 1959, c.379, s.7; Acts 1967, c.336, s.1.) As amended by P.L.2-1988, SEC.654; P.L.277-1993(ss), SEC.112.

IC 21-1-5-9

Priority of advances

Sec. 9. (a) Priority of advances for school building construction programs shall be made to school corporations and school townships which have the least amount of adjusted assessed valuation per pupil in average daily attendance.

(b) Priority of advances for educational technology programs shall be on whatever basis the Indiana state board of education, after consulting with the department of education and the budget agency, periodically determines.

(Formerly: Acts 1959, c.379, s.8.) As amended by P.L.2-1988, SEC.655; P.L.277-1993(ss), SEC.113.

IC 21-1-5-10

Tax levy to pay advances and interest; transfer of receipts to general fund

Sec. 10. A school corporation or school township to which an advance is made for an educational technology program may annually levy a tax in the capital projects fund or the debt service fund to produce an amount equal to the amount deducted in the current year from the distribution of state school tuition support to pay the advance, together with the interest on the advance. The amount received from the tax shall be transferred from the capital projects fund or the debt service fund, as applicable, to the general fund.

(Formerly: Acts 1959, c.379, s.8a; Acts 1963, c.321, s.3.) As amended by P.L.277-1993(ss), SEC.114.

IC 21-1-5-11

Sale, transfer, or liquidation of agreements evidencing right to make deductions from tuition support to pay advancements

Sec. 11. Upon request of the Indiana state board of education,

acting upon the advice of the department of education, the state board of finance may periodically sell, transfer, or liquidate agreements, in whole or in part, including without limitation the sale, transfer, or liquidation of all or any part of the principal or interest to be received at any time under one (1) or more agreements, which agreements evidence the right of the state to make deductions from state school tuition support to pay advances under this chapter under the terms and conditions that the state board of finance considers necessary and appropriate. Each sale, transfer, or liquidation under this section is subject to the following conditions:

- (1) Each sale, transfer, or liquidation may be made only to a department, an agency, a commission, an instrumentality, or a public body of the state, including the Indiana bond bank.
- (2) Each sale, transfer, or liquidation of agreements may be made only for cash.
- (3) Payments under the sale, transfer, or liquidation shall be made to the treasurer of state for the common school fund and reported to the state board of finance.
- (4) The aggregate amount of cash received by the common school fund from the sale may not be less than the outstanding principal amount of all or a part of the agreements sold plus accrued interest owed.
- (5) If necessary to facilitate a sale, transfer, or liquidation, the Indiana state board of education or the state board of finance may agree to act on behalf of an entity described in subdivision (1) by collecting payment on advances that are:
 - (A) received directly from a school corporation or school township, if any direct payments are received; or
 - (B) deducted from amounts appropriated and made available for state school tuition support.

An agreement by the Indiana state board of education or the state board of finance under this subdivision is a valid and enforceable contractual obligation but is not a debt of the state within the meaning of the constitutional prohibition against state indebtedness.

- (6) Each proposed sale, transfer, or liquidation must be reviewed by the budget committee and approved by the budget agency.

As added by P.L.28-1992, SEC.12. Amended by P.L.277-1993(ss), SEC.115; P.L.164-1996, SEC.1.